

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:)	Complaint No. 01-89
)	for
Larry Fricker Co., Inc.)	Administrative Civil Liability
1421 N. State College Boulevard)	
Anaheim, CA 92806)	
)	
<u>Attention: Paul L. Etzold, Owner</u>)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13399.33 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on September 14, 2001 at the Orange County Water District office, in Fountain Valley. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Larry Fricker Co., Inc. (hereinafter, Larry Fricker Co.) located at 1421 N. State College Boulevard, Anaheim, California, has been in business since the 1980s, but has never submitted a Notice of Intent to obtain coverage under the State's General Permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit).
5. Facilities that discharge storm water associated with industrial activity requiring a General Permit are listed by category in 40 CFR Section 122.26(b)(14) and in Attachment 1 of the General Permit. Larry Fricker Co. produces blended fertilizers, and these activities are described by Standard Industrial Classification (SIC) code 2875. Larry Fricker Co. is a Category 2 discharger as defined by Attachment 1 of the General Permit, and coverage under the General Permit is mandatory.
6. On May 4, 2001, Board staff (staff) inspected Larry Fricker Co. to assess the nature of industrial operations and whether storm water discharges associated with industrial activity occur at the site. A Notice of Noncompliance was issued on May 17, 2001, via certified mail, requiring Larry Fricker Co. to submit a Notice of Intent to obtain coverage under the General Permit, and detailing conditions observed at the site which were in violation of General Permit requirements.
7. Larry Fricker Co. did not respond to the Notice of Noncompliance. Staff telephoned Mr. Paul Etzold, owner, on June 21, 2001. Mr. Etzold acknowledged receipt of the Notice of Noncompliance and his lack of response. Staff informed him that another Notice of Noncompliance would be issued, and emphasized the importance of a timely response in order to avoid mandatory penalties.

8. A second Notice of Noncompliance was issued on June 25, 2001, via certified mail, requiring Larry Fricker Co. to immediately file a Notice of Intent to obtain coverage under the General Permit. To date, Larry Fricker Co. has not submitted a Notice of Intent or a Notice of Nonapplicability that specifies the basis for not needing to obtain coverage under an NPDES permit.
9. Pursuant to Section 13399.30(c)(2) of the California Water Code, if a discharger fails to submit the required Notice of Intent to the Regional Board within 60 days from the date on which the original Notice of Noncompliance was sent, the Board shall impose the penalties described in subdivision (a) of Section 13399.33 of the California Water Code.
10. Pursuant to Section 13399.33(a) of the California Water Code, the Regional Board shall impose civil liability administratively in an amount that is not less than five thousand dollars (\$5,000) per year of noncompliance or fraction thereof, unless the Board makes express findings based on specific factors listed in Section 13399.33(a)(2).
11. After consideration of the factors specified in Section 13399.33(a)(2), the Executive Officer proposes that administrative civil liability be imposed on Larry Fricker Co. by the Board in the amount of \$5,000.

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed under Paragraph 11, above, to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3348

If you have any questions, please contact Mark Smythe at (909) 782-4998, or Michael Adackapara, at (909) 782-3238. For legal questions, contact the Regional Board's staff counsel, Ted Cobb at (916) 341-5171.

Date

Gerard J. Thibeault
Executive Officer

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WAIVER OF HEARING

I agree to waive Larry Fricker Co., Inc.'s right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-89.

I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of \$5,000. I understand that I am giving up Larry Fricker Co., Inc.'s right to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for Larry Fricker Co., Inc.